

Small Business Administration

§ 120.839

may apply to expand its Area of Operations if it meets all requirements to be an Accredited Lender Program (ALP) CDC, as set forth in § 120.840(c), and demonstrates that it can competently fulfill its 504 program responsibilities in the proposed area.

(b) *Local Economic Area Expansion.* A CDC seeking to expand its Area of Operations into a Local Economic Area must apply in writing to the Lead SBA Office.

(c) *Multi-State CDC Expansion.* A CDC seeking to become a Multi-State CDC must apply to the SBA District Office that services the area within each State where the CDC intends to locate its principal office for that State. A CDC may apply to be a Multi-State CDC only if:

(1) The State the CDC seeks to expand into is contiguous to the State of the CDC's incorporation;

(2) The CDC demonstrates that its membership meets the requirements in § 120.822 separately for its State of incorporation and for each additional State in which it seeks to operate as a Multi-State CDC; and

(3) The CDC has a loan committee meeting the requirements of § 120.823.

[68 FR 57981, Oct. 7, 2003]

§ 120.837 SBA decision on application for a new CDC or for an existing CDC to expand Area of Operations.

The processing District Office must solicit the comments of any other District Office in which the CDC operates or proposes to operate. The processing District Office must determine that the CDC is in compliance with SBA's regulations, policies, and performance benchmarks, including pre-approval and annual review by SBA of any management or staff contracts, and the timely submission of all annual reports. In making its recommendation on the application, the District Office may consider any information presented to it regarding the requesting CDC, the existing CDC, or CDCs that may be affected by the application, and the proposed Area of Operations.

(a) The SBA District office will submit the application, recommendation, and supporting materials within 60 days of the receipt of a complete application from the CDC to the D/FA, who

will make the final decision. The D/FA may consider any information submitted or available related to the applicant and the application.

(b) SBA will notify the CDC of its decision in writing, and if the application is denied, the reasons for its decision.

(c) If a CDC is approved to operate as a Multi-State CDC, the CDC's ALP, PCLP, or Priority CDC authority will carry over into every additional State in which it is approved to operate as a Multi-State CDC.

[65 FR 42633, July 11, 2000, as amended at 68 FR 57981, Oct. 7, 2003]

§ 120.839 Case-by-case application to make a 504 loan outside of a CDC's Area of Operations.

A CDC may apply to make a 504 loan for a Project outside its Area of Operations to the District Office serving the area in which the Project will be located. The applicant CDC must demonstrate that it can adequately fulfill its 504 program responsibilities for the 504 loan, including proper servicing. In addition, the CDC must have satisfactory SBA performance, as determined by SBA in its discretion. The CDC's Risk Rating, among other factors, will be considered in determining satisfactory SBA performance. Other factors may include, but are not limited to, on-site review/examination assessments, historical performance measures (like default rate, purchase rate and loss rate), loan volume to the extent that it impacts performance measures, and other performance related measurements and information (such as contribution toward SBA mission). The District Office may approve the application if:

(a) The applicant CDC has previously assisted the business to obtain a 504 loan; or

(b) The existing CDC or CDCs serving the area agree to permit the applicant CDC to make the 504 loan; or

(c) There is no CDC within the Area of Operations.

[68 FR 57982, Oct. 7, 2003, as amended at 73 FR 75518, Dec. 11, 2008]